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Supreme Court, U.S.
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IN THE

SUPREME COURT OF THE UNITED STATES

October Term 1985

No. 85 - 1664

STATE OF ALABAMA

Petitioner,

v.

COY PATRICK CROWE

Respondent.

On Petition for Writ of Certiorari to the
Supreme Court of Alabama

MEMORANDUM FOR THE RESPONDENT IN OPPOSITION

JOHN L. CARROLL
Mercer University
School of Law
Macon, GA 31207
912-744-2628
Counsel for Respondent

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In arguing that this court should grant its petition, the State of Alabama contends that the Alabama Supreme Court misconstrued this court's decision in Miranda v. Arizona, 384 U.S. 437 (1966) by imposing an express waiver requirement. That contention ignores the fact that the decision below simply reaffirms the principles which this court has enunciated concerning allocations of the burden of proving waiver.

The court below was faced with a factual scenario which compelled its decision to reverse. The Respondent was arrested by two FBI agents in Nashville who shot the tires of his car. He was then given the prescribed Miranda warnings. (Pet.App.99a) Enroute from

the arrest scene to a Nashville jail, petitioner was interrogated by one of the agents and gave an inculpatory statement which was subsequently used against him at trial. (Pet.App.109a-110a). The Alabama Supreme Court held that the use of the statement was error because the prosecution had failed to meet their "heavy burden" of proving that the respondent had waived his right to remain silent and his right to counsel. (Pet.App.113a). In so doing, the court correctly noted that there was no evidence to support a waiver finding. Indeed, there is no testimony that the defendant understood his rights and knowingly and intelligently waived them. Moreover, when the respondent reached the jail and was again given his Miranda warnings he refused to sign a waiver of his rights form and expressly stated that he did not intend to make any statements. (Pet.App.111a).

Faced with a record that overwhelmingly militates against a finding of waiver, the state argues that respondent's 8th grade education and previous history of arrests were evidence supporting a waiver finding which was ignored by the Alabama Supreme Court. That argument was made to the court below in the brief which the petitioner filed and was simply rejected rather than ignored.

In reversing respondent's conviction, the Alabama Supreme Court relied on this court's decisions plainly holding that a "[c]ourt must presume that a defendant did not waive his rights; the prosecution's burden is great . . ." North Carolina v. Butler, 441 U.S. 369, 373 (1979); see also Tague v. Louisiana, 444 U.S. 469 (1980) Miranda v. Arizona, 384 U.S. 437, 475 (1966). The Alabama Supreme Court, after the benefit of full briefing, oral argument and a review of the record concluded that the prosecution had not met the

applicable legal standard for proving waiver. The decision below made no new law and offers no ground upon which certiorari should be granted.

It is therefore respectfully submitted that the petition for writ of certiorari should be denied.

John L. Carroll
Mercer University
School of Law
Macon, GA 31207
Counsel for Respondent

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CERTIFICATE OF SERVICE

I, John L. Carroll, a member of the Bar of the Supreme Court of the United States, do hereby certify that on this 27 day of May, 1986, I did serve a copy of the Memorandum in Opposition, the Motion for Leave to Proceed in forma pauperis and the Affidavit of Counsel by placing same in the United States Mail, first class postage prepaid and properly addressed to the counsel of record as follows:

Hon. Rivard Melson
Assistant Attorney General
Alabama State House
11 South Union St.
Montgomery, AL 36130

I further certify that I have served all parties required to be served.

John L. Carroll
Counsel for Respondent